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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

ARTHUR LEWIS DAVIS,

Defendant and Appellant.

B221678

(Los Angeles County
Super. Ct. No. YA076296)

APPEAL from a judgment of the Superior Court of Los Angeles County,
Thomas R. Sokolov, Judge. Dismissed.

Richard B. Lennon, under appointment by the Court of Appeal, for Defendant and
Appellant.

No appearance for Plaintiff and Respondent.

Arthur Lewis Davis appeals from the judgment entered following his no contest plea to one count of burglary (Pen. Code, § 459) and one count of grand theft of personal property worth over \$400 (Pen. Code, § 487, subd. (a)).

On October 12, 2009, a witness saw appellant repeatedly enter a model home, remove furniture, and place it in a vehicle. The witness called the police while this was occurring. Gardena Police Department officers responded to the burglary call and detained appellant.

Appellant was charged by felony complaint with two counts. The complaint alleged that appellant had suffered nine prior convictions and served prison terms within the meaning of Penal Code section 667.5, subdivision (b). After initially pleading not guilty, appellant agreed to plead no contest to both charges in exchange for a three-year sentence.

At the November 5, 2009 change of plea hearing, the prosecutor explained appellant's rights to him and ascertained that appellant understood his rights and waived them. The parties stipulated to a factual basis based on the police reports. The trial court determined that the plea was knowing, intelligent, free, and voluntary and that there was a factual basis for the plea. The court accepted the plea and found appellant guilty. The court sentenced appellant pursuant to the plea agreement to the upper term of three years on each count, to be served concurrently. The court imposed fines and fees and gave appellant credit for 25 days of actual custody and 12 conduct credit days, for a total of 37 days.¹ The court struck the allegations of prior convictions and prison terms (Pen. Code, § 667.5, subd. (b)) because of appellant's early admission to the offenses, the recovery of the property, and the nature of the offenses as nonserious and nonviolent. The court also ordered appellant to pay \$500 in restitution to the victim.

¹ Following appellant's motion based on the amendment to Penal Code section 4019, the trial court awarded appellant a total of 25 conduct credit days and ordered an amended abstract of judgment.

Appellant filed a notice of appeal and requested a certificate of probable cause, which the trial court denied.

After review of the record, appellant's court-appointed counsel filed an opening brief requesting this court to independently review the record pursuant to the holding of *People v. Wende* (1979) 25 Cal.3d 436, 441.

On May 28, 2010, we advised appellant that he had 30 days within which to personally submit any contentions or issues which he wished us to consider. On July 12, 2010, we received a supplemental brief from appellant. Appellant asserts that he does not seek to withdraw his no contest plea; nor does he challenge his sentencing. He asserts that the burglary charge should be "deleted" from his record because it was not part of the plea agreement.

Despite appellant's assertion that he does not seek to withdraw his no contest plea, his assertion that the burglary charge should be "deleted" is a challenge to the validity of the plea. A certificate of probable cause is required for an appeal challenging the validity of a plea. (*People v. Brown* (2010) 181 Cal.App.4th 356, 359.) Appellant's claims are not cognizable on appeal absent a certificate of probable cause. The appropriate remedy accordingly is to dismiss the appeal. (Pen. Code, § 1237.5; *People v. Mendez* (1999) 19 Cal.4th 1084, 1099 [explaining that the appellate court "may not proceed to the merits of the appeal, but must order dismissal thereof" where the defendant has not obtained a certificate of probable cause].)

We have examined the entire record and are satisfied that no arguable issues exist, and that appellant has, by virtue of counsel's compliance with the *Wende* procedure and our review of the record, received adequate and effective appellate review of the judgment entered against him in this case. (*Smith v. Robbins* (2000) 528 U.S. 259, 278; *People v. Kelly* (2006) 40 Cal.4th 106, 112-113.)

DISPOSITION

The appeal is dismissed.

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WILLHITE, Acting P.J.

We concur:

MANELLA, J.

SUZUKAWA, J.